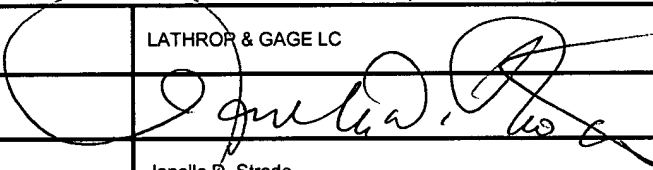
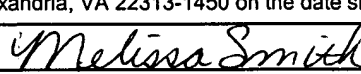
	Application Number	09/885,198
	Filing Date	June 20, 2001
	First Named Inventor	Augustin T. Chen
	Art Unit	1713
	Examiner Name	Satya B. Sastri
Total Number of Pages in This Submission	Attorney Docket Number	393325

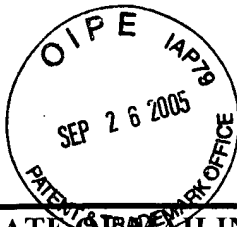
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Mailing Return Post Card
<div style="border: 1px solid black; padding: 5px;"> <b>Remarks</b> </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	LATHROP & GAGE LC		
Signature			
Printed Name	Janelle D. Strode		
Date	September 26, 2005	Reg. No.	34,738

CERTIFICATE OF MAILING 37 CFR 1.10			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail Post Office to Addressee (Label No. EV413219073US) in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Melissa Smith	Date	September 26, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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08-27-c5

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CERTIFICATE OF MAILING BY EXPRESS MAIL POST OFFICE TO ADDRESSEE (37 CFR 1.10)			Matter No.
Applicant(s): Augustin T. Chen, et al.			393325
Serial No.	Filing Date	Examiner	Group Art Unit
09/885,198	June 20, 2001	Satya B. Sastri	1713
Invention      Adhesive Compositions			
<p>I hereby certify that this Transmittal Form (1 page); Appeal Brief (12 pages); Fee Transmittal For FY 2005 (1 page in duplicate), authorization to charge \$500 for the appeal brief; authorization to charge additional fees that may be required, or credit any overpayment, to Deposit Account No. 12-0600; and return post card are being mailed in an envelope addressed to: Mail Stop: Appeal Brief -- Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of September, 2005.</p>			
<div>Melissa Smith Name of Depositor</div>			
<div><i>Melissa Smith</i> Signature of Depositor</div>			
<div>EV413219073US Express Mail Label No.</div>			

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL for FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 500

## Complete if Known

Application Number	09/885,198
Filing Date	June 20, 2001
First Named Inventor	Augustin T. Chen
Examiner Name	Satya B. Sastri
Art Unit	1713
Attorney Docket No.	393325

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 12-0600 Deposit Account Name: LATHROP & GAGE LC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) ☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

### 2. EXCESS CLAIM FEES

#### Fee Description

Each claim over 20 (including Reissues)

Small Entity  
Fee (\$)

Fee (\$)

Each independent claim over 3 (including Reissues)

50 25

Multiple dependent claims

200 100

Total Claims

360 180

Extra Claims

Fee(\$)

Fee Paid (\$)

Multiple Dependent Claims

Fee (\$)

Fee Paid (\$)

\_\_\_\_\_ -20 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee(\$)

Fee Paid (\$)

\_\_\_\_\_ - 3 or HP= \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

\_\_\_\_\_ - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x

### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

Fees Paid (\$)

\$500

## SUBMITTED BY

Signature

Registration No.  
(Attorney/Agent)

34,738

Telephone

(816) 460-5859

Name (Print/Type)

Janelle D. Storde

Date

September 26, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**PATENT**

Attorney Docket No.: 393325

Express Mail Label No.: EV413219073US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellant(s): Chen *et al.*

Serial No.: 09/885,198

Filed: June 20, 2001

For: ADHESIVE COMPOSITIONS

Confirmation No.: 5726

Examiner: Satya B. Sastri

Group Art Unit: 1713

Attorney Docket No. 393325

Mail Stop: Appeal Brief-Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

Dear Sir:

In accordance with 37 C.F.R. § 41.37, and fully responsive to the Office Action of April 26, 2005, 2004, Appellants hereby file the Appeal Brief in support of the Appeal in the above-identified matter (hereinafter the '198 Application). A Notice of Appeal, with the appropriate fee of \$500 as required by 37 C.F.R. §§41.31, 41.20(b)(1), was filed on July 27, 2005. Three copies of this brief are enclosed. The \$500 fee for this appeal brief, as required by 37 C.F.R. §41.20(b)(2), is also filed herewith. This appeal brief is timely filed within two months of the mailing of the notice of appeal, and further pursuant to 37 C.F.R. §1.8 and §1.10.

09/28/2005 WABDELRI 00000018 120600 09885198  
01 FC:1402 500.00 DA

**(1) Real party in interest.**

The real party in interest for this appeal is Surface Specialties, S.A. Evidence of this assignment, which was recorded on June 20, 2001, may be found at reel/frame 011935/0510.

**(2) Related appeals and interferences.**

No other appeals or interferences are currently known to Appellants that will directly affect, be directly affected by, or have a bearing on the decision to be rendered by the Board of Patent Appeals and Interferences in the instant appeal.

**(3) Status of claims.**

Claims 22, 24, 27, and 29 are currently pending in the application and stand rejected under 35 U.S.C. §102(b), or in the alternative, under 35 U.S.C. §103(a) as being anticipated by U. S. Patent Application No. 5,514,122 granted to Morris (hereinafter "Morris").

Claims 1-21, 23, 25, 26, 28, 30 and 31 have been previously cancelled.

**(4) Status of amendments.**

The '198 Application was filed on June 20, 2001. A first office action was mailed on December 24, 2002, to which a response was filed and entered February 17, 2003. On April 18, 2003, a second office action was mailed, to which a response was filed and entered July 17, 2003. On October 3, 2003, a third office action was mailed, to which a response was filed and entered February 3, 2004. A final rejection was mailed April 15, 2004. An RCE and response were filed August 16, 2004. On October 6, 2004, a fourth office action was mailed, to which a response was filed March 7, 2005. A final rejection was mailed April 26, 2005, prompting this appeal. A Notice of Appeal was filed on July 26, 2005. Claims 22, 24, 27, and 29 are currently pending, of which Claims 24 and 29 are original (without claim amendments during prosecution). Claims 22 and 27 were amended during prosecution.

**(5) Summary of claimed subject matter.**

The inventions of Claims 22, 24, 27, and 29 concern a transfer coatable adhesive composition at least as provided in pages 2 and 3 of the instant specification.

Representative Claim 22 is as follows:

*Claim 22:*

22. A transfer coatable, removable or repositionable aqueous adhesive composition comprising:

- (a) from about 5 to about 75 weight % of an aqueous suspension of polymeric acrylate microspheres;
- (b) from about 25 to about 95 weight % of an aqueous emulsion of crosslinked acrylate polymer; and optionally,
- (c) a functionally effective amount of one or more auxiliary ingredients for modifying coating or enhancing adhesive performance properties;

wherein the weight ratio, on a solids basis, of microspheres to crosslinked acrylate polymer is about 0.025:1 to about 1.9:1, and;

wherein said polymeric acrylate microspheres are solid, and are produced by the process comprising: A) contacting a polymerizable aqueous emulsion of at least one non-ionic monomer of an alkyl acrylate or alkyl methacrylate ester of a non-tertiary alcohol and at least one ionic monomer copolymerizable with said non-ionic monomer and at least one non-free radically polymerizable acid; and B) polymerizing the emulsion to form an aqueous suspension of said solid polymeric pressure sensitive adhesive microspheres; wherein said non-free radically polymerizable acid is contacted with said polymerizable aqueous emulsion prior to achieving about 95% conversion of said non-ionic monomer.

(6) **Grounds for rejection to be reviewed on appeal.**

Whether Claims 22, 24, 27, and 29 are anticipated by or obvious over U. S. Patent No. 5,514,122 granted to Morris.

(7) **Argument.**

*Morris does not anticipate nor render obvious Claims 22, 24, 27, and 29.*

Appellants' invention teaches an aqueous adhesive composition and an article comprising same wherein the adhesive is transfer coatable, and removable or repositionable, having an aqueous suspension of solid polymeric acrylic microspheres produced by a process using a non-free radically polymerizable acid.

Morris teaches a disposable absorbent article having hollow polymeric microspheres, where the microspheres are produced using free radically polymerizable monomers of acrylate, methacrylate, or vinyl ester. Morris does not teach or suggest a transfer coatable, and removable or repositionable adhesive composition having solid microspheres produced using a non-free radically polymerizable acid.

The Examiner has previously noted in the Advisory Action mailed July 9, 2004, that Morris also discloses solid microspheres produced by a one-step emulsification process. Appellants assert that the microspheres discussed in Morris as referenced by the Examiner at column 4, lines 58-65, differ from Appellants' invention as claimed. The solid microspheres of Appellants' invention are not produced by the one-step process discussed in Morris, nor do the microspheres in Morris contain the same compositions as the spheres in Appellants' invention at least as defined in Claim 22. Further, the data provided in Appellants' specification at least in Tables 4, 5, 6, and 7 demonstrate the superior qualities of the adhesives produced in accordance with Appellants' invention.

Appellants maintain that Morris does not teach or suggest the adhesive composition and article of Appellants' invention. All elements of Appellants' invention are not provided by Morris. The rejection under 35 U.S.C. § 102(b) is not supported. Appellants request withdrawal of the rejection.

Appellants further maintain that Morris does not teach or suggest the adhesive composition and article of Appellants' invention containing removable or repositionable transfer coatable aqueous adhesive compositions having solid polymeric microspheres, which is produced using a non-free radically polymerizable acid.. A *prima facie* case of obviousness has not been shown. The rejection under 35 U.S.C. § 103(a) is not supported. Appellants request withdrawal of the rejection.

Claims 24 and 29 further stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over Morris *et al.* Appellants respectfully traverse the rejection and request withdrawal of same.

Appellants' invention teaches a transfer coatable, removable or repositionable adhesive composition and article as described above. Claims 24 and 29 are dependent claims teaching a specific dry film peel value range for the composition and article, respectively.

Morris teaches a disposable absorbent article having hollow polymeric microspheres, where the microspheres are produced using free radically polymerizable monomers of acrylate, methacrylate, or vinyl ester. Morris does not teach or suggest transfer coatable, removable or repositionable adhesives prepared using a non-free radically polymerizable acid, nor adhesives having any specified dry film peel value. Appellants maintain the Examiner is incorrect in asserting that the similarity in compositions of Appellants' invention and those provided in Morris would lead one to believe that the adhesive compositions of Morris must inherently have a peel force within the claimed range. Appellants assert that the adhesive compositions are produced by different processes as discussed above, are different compositions, and have different properties and functions. The rejections under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over Morris *et al.* are not supported. All elements of Appellants invention are not provided by Morris. The rejection under 35 U.S.C. § 102(b) is not supported. .



Appellants further maintain that Morris does not teach or suggest the adhesive composition and article of Appellants' invention containing removable or repositionable transfer coatable aqueous adhesive compositions having solid polymeric microspheres, which are produced using a non-free radically polymerizable acid, and further having a specific dry film peel value range for the composition and article, respectively. *A prima facie* case of obviousness has not been shown. The rejection under 35 U.S.C. § 103(a) is not supported. Appellants request withdrawal of the rejection.

Representative Claim 22 is again as follows:

*Claim 22:*

22. A transfer coatable, removable or repositionable aqueous adhesive composition comprising:

- (a) from about 5 to about 75 weight % of an aqueous suspension of polymeric acrylate microspheres;
- (b) from about 25 to about 95 weight % of an aqueous emulsion of crosslinked acrylate polymer; and optionally,
- (c) a functionally effective amount of one or more auxiliary ingredients for modifying coating or enhancing adhesive performance properties;

wherein the weight ratio, on a solids basis, of microspheres to crosslinked acrylate polymer is about 0.025:1 to about 1.9:1, and;

wherein said polymeric acrylate microspheres are solid, and are produced by the process comprising: A) contacting a polymerizable aqueous emulsion of at least one non-ionic monomer of an alkyl acrylate or alkyl methacrylate ester of a non-tertiary alcohol and at least one ionic monomer copolymerizable with said non-ionic monomer and at least one non-free radically polymerizable acid; and B) polymerizing the emulsion to form an aqueous suspension of said solid polymeric pressure sensitive adhesive microspheres; wherein said non-free radically polymerizable acid is

contacted with said polymerizable aqueous emulsion prior to achieving about 95% conversion of said non-ionic monomer.

In regard to Claim 22, as discussed above, Morris does not anticipate nor render obvious an adhesive composition having those elements enumerated in Claim 22.

Claims 24 depends from Claim 22 and benefits from like argument. However, these Claims have additional features pertaining to peel strength that patentably distinguish over Morris.

*Claim 24*

For example, Claim 24 recites a composition of claim 22 having a dry film peel strength of about 0.2 to about 2.5 pounds per inch peel force on stainless steel. As argued above, Morris does not disclose or suggest the composition and properties of Claim 22.

*Claim 27*

In Claim 27, the article has a composition having solid polymeric microspheres as described in Claim 27. Morris does not disclose or suggest the composition of Claim 27.

*Claim 29*

Claim 29 recites a composition of Claim 27 having a dry film peel strength of about 0.2 to about 2.5 pounds per inch peel strength. Morris does not disclose or suggest the composition of Claim 29.

As argued above, Morris does not anticipate nor render obvious the compositions of Appellants' invention.

**(8) Claims appendix.**

Appellants enclose a copy of the Claims involved in this appeal as an appendix hereto.

**(9) Evidence appendix.**

No additional evidence is applicable.

**(10) Related proceedings appendix.**

No related proceedings are applicable.

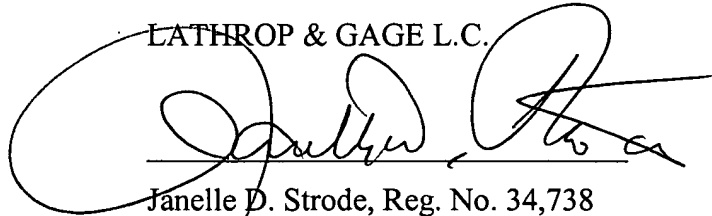
### CONCLUSION

Appellants respectfully request the Honorable Board of Appeals reverse the Examiner in the rejections of Claims 22, 24, 27, and 29 under 35 U.S.C. § 102(b), or in the alternative, under 35 U.S.C. § 103(a). Appellants respectfully solicit allowance of Claims 22, 24, 27, and 29, all of the Claims appealed and pending in the instant application.

Other than the costs for this appeal brief, no further fees are deemed due in connection with this matter. However, the Commissioner is hereby authorized to charge any fees which may be due in this matter from Deposit Account Number 08-2025.

Respectfully submitted,

LATHROP & GAGE L.C.

A large, stylized handwritten signature in black ink, appearing to read 'Janelle D. Strode', is written over a horizontal line.

Janelle D. Strode, Reg. No. 34,738

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Suite 2800

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Tel: (816) 460-5859

Fax: (816) 292-2001

Attorney for Appellants

## Claims Appendix

22. A transfer coatable, removable or repositionable aqueous adhesive composition comprising:

- (a) from about 5 to about 75 weight % of an aqueous suspension of polymeric acrylate microspheres;
- (b) from about 25 to about 95 weight % of an aqueous emulsion of crosslinked acrylate polymer; and optionally,
- (c) a functionally effective amount of one or more auxiliary ingredients for modifying coating or enhancing adhesive performance properties;

wherein the weight ratio, on a solids basis, of microspheres to crosslinked acrylate polymer is about 0.025:1 to about 1.9:1, and;

wherein said polymeric acrylate microspheres are solid, and are produced by the process comprising: A) contacting a polymerizable aqueous emulsion of at least one non-ionic monomer of an alkyl acrylate or alkyl methacrylate ester of a non-tertiary alcohol and at least one ionic monomer copolymerizable with said non-ionic monomer and at least one non-free radically polymerizable acid; and B) polymerizing the emulsion to form an aqueous suspension of said solid polymeric pressure sensitive adhesive microspheres; wherein said non-free radically polymerizable acid is contacted with said polymerizable aqueous emulsion prior to achieving about 95% conversion of said non-ionic monomer.

24. The composition of claim 22, having dry film peel value of about 0.2 to about 2.5 pounds per inch peel force on stainless steel with adhesive failure mode.

27. An article comprising a face stock material having coated thereon a removable or repositionable, pressure sensitive adhesive composition which is transfer coatable comprising: (a) solid polymeric acrylate microspheres, (b) crosslinked acrylate polymer, and, optionally, (c) a functionally effective amount of one or more auxiliary ingredients for modifying coating or enhancing adhesive performance properties; wherein

the weight ratio of microspheres to crosslinked acrylate polymer is about 0.025:1 to about 1.9:1, and wherein said solid polymeric acrylate microspheres are produced by the process comprising: A) contacting a polymerizable aqueous emulsion of at least one non-ionic monomer of an alkyl acrylate or alkyl methacrylate ester of a non-tertiary alcohol and at least one ionic monomer copolymerizable with said non-ionic monomer and at least one non-free radically polymerizable acid; and B) polymerizing the emulsion to form an aqueous suspension of said solid polymeric pressure sensitive adhesive microspheres; wherein said non-free radically polymerizable acid is contacted with said polymerizable aqueous emulsion prior to achieving about 95% conversion of said non-ionic monomer.

29. The article of claim 27 having dry film peel value of about 0.2 to about 2.5 pounds per inch peel force on stainless steel with adhesive failure mode.

## **Evidence Appendix**

Not applicable.

## **Related Proceedings Appendix**

Not applicable.